

National Labor Relations Board

§ 102.140

Management Guidance, 39 FR 12389–12391, to the extent applicable.

(49 Stat. 449 (29 U.S.C. 151–166, as amended by Act of June 23, 1947) 61 Stat. 136 (29 U.S.C. Supp. 151–167), act of October 22, 1951, 65 Stat. 601 (29 U.S.C. 158, 159, 168), and Act of September 14, 1959 73 Stat. 519; 29 U.S.C. 141–168); 86 Stat. 770; (5 U.S.C. Appendix I, section 1 et seq.)

[40 FR 59728, Dec. 30, 1975]

Subpart S—Open Meetings

AUTHORITY: Sec. 6, National Labor Relations Act, as amended (49 Stat. 452; 29 U.S.C. 156) and sec. 3(a), Government in the Sunshine Act, Pub. L. 94–409, Sept. 13, 1976, 5 U.S.C. 552b(g).

SOURCE: 42 FR 13550, Mar. 11, 1977, unless otherwise noted.

§ 102.137 Public observation of Board meetings.

Every portion of every meeting of the Board shall be open to public observation, except as provided in § 102.139 of these rules, and Board members shall not jointly conduct or dispose of agency business other than in accordance with the provisions of this subpart.

§ 102.138 Definition of meeting.

For purposes of this subpart, *meeting* shall mean the deliberations of at least three members of the full Board, or the deliberations of at least two members of any group of three Board members to whom the Board has delegated powers which it may itself exercise, where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations to determine whether a meeting should be closed to public observation in accordance with the provisions of this subpart.

§ 102.139 Closing of meetings; reasons therefor.

(a) Except where the Board determines that the public interest requires otherwise, meetings, or portions thereof, shall not be open to public observation where the deliberations concern the issuance of a subpoena, the Board's participation in a civil action or proceeding or an arbitration, or the initiation, conduct or disposition by the Board of particular representation or

unfair labor practice proceedings under sections 8, 9, or 10 of the Act, or any court proceedings collateral or ancillary thereto.

(b) Meetings, or portions thereof, may also be closed by the Board, except where it determines that the public interest requires otherwise, when the deliberations concern matters or information falling within the reasons for closing meetings specified in 5 U.S.C. 552b(c)(1) (secret matters concerning national defense or foreign policy); (c)(2) (internal personnel rules and practices); (c)(3) (matters specifically exempted from disclosure by statute); (c)(4) (privileged or confidential trade secrets and commercial or financial information); (c)(5) (matters of alleged criminal conduct or formal censure); (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy); (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes); or (c)(9)(B) (disclosure would significantly frustrate implementation of a proposed agency action).

§ 102.140 Action necessary to close meetings; record of votes.

A meeting shall be closed to public observation under § 102.139, only when a majority of the members of the Board who will participate in the meeting vote to take such action.

(a) When the meeting deliberations concern matters specified in § 102.139(a), the Board members shall vote at the beginning of the meeting, or portion thereof, on whether to close such meeting, or portion thereof, to public observation, and on whether the public interest requires that a meeting which may properly be closed should nevertheless be open to public observation. A record of such vote, reflecting the vote of each member of the Board, shall be kept and made available to the public at the earliest practicable time.

(b) When the meeting deliberations concern matters specified in § 102.139(b), the Board shall vote on whether to close such meeting, or portion thereof, to public observation, and on whether there is a public interest which requires that a meeting which may properly be closed should nevertheless be